

104TH CONGRESS  
2D SESSION

# H. R. 3519

To amend the Clean Air Act.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 23, 1996

Mr. BARTON of Texas introduced the following bill; which was referred to the  
Committee on Commerce

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## A BILL

To amend the Clean Air Act.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE, REFERENCES, AND TABLE OF**  
4       **CONTENTS.**

5       (a) SHORT TITLE.—This Act may be cited as the  
6       “Clean Air Act Amendments of 1996”.

7       (b) REFERENCES.—Whenever in this Act an amend-  
8       ment or repeal is expressed in terms of an amendment  
9       to, or repeal of, a section or other provision, the reference  
10      shall be considered to be made to a section or other provi-  
11      sion of the Clean Air Act.

1 (c) TABLE OF CONTENTS.—The table of contents is  
 2 as follows:

- Sec. 1. Short title, references, and table of contents.
- Sec. 2. Operating permits.
- Sec. 3. Enhanced monitoring.
- Sec. 4. Recognition of effective controls.
- Sec. 5. Sanctions.
- Sec. 6. Hazardous air pollutants.
- Sec. 7. Voluntary controls adopted prior to nonattainment.
- Sec. 8. Attainment date determinations.
- Sec. 9. Attainment redesignations.
- Sec. 10. Credit for episodic controls.
- Sec. 11. Opt-in reformulated gas areas.
- Sec. 12. NOx reductions for reformulated gas.
- Sec. 13. Establishing national primary ambient air quality standards.
- Sec. 14. Transportation conformity.
- Sec. 15. Overwhelming transport.
- Sec. 16. Automobile inspection and maintenance.
- Sec. 17. Emissions trading.

### 3 **SEC. 2. OPERATING PERMITS.**

4 (a) DEFINITION OF APPLICABLE REQUIREMENT.—  
 5 Section 501 (42 U.S.C. 7661) is amended by adding the  
 6 following new paragraph after paragraph (4):

7 “(5) APPLICABLE REQUIREMENT.—The term  
 8 ‘applicable requirement’ means any requirement pro-  
 9 mulgated by the Administrator pursuant to section  
 10 111 (42 U.S.C. 7411), section 112 (42 U.S.C. 7412)  
 11 with the exception of section 112(r), section 129 (42  
 12 U.S.C. 7429), Section 165 (42 U.S.C. 7475), sub-  
 13 sections (e) and (f) of section 183 (42 U.S.C.  
 14 7511b), section 328 (42 U.S.C. 7627), title IV or  
 15 title VI (unless the permitting authority determines  
 16 that a requirement imposed pursuant to title VI  
 17 need not be contained in a permit issued under this

1 title) and any limitation on emissions or operations  
2 contained in a construction permit issued pursuant  
3 to Parts C or D of title I. The term ‘applicable re-  
4 quirement’ also includes any other requirement pro-  
5 vided for in an applicable state implementation plan,  
6 except that a requirement imposed pursuant to a  
7 State minor new source review program under sec-  
8 tion 110(a)(2) (42 U.S.C. 7410(a)(2)) shall not be  
9 considered an applicable requirement for purposes of  
10 this title. Notwithstanding this paragraph, any per-  
11 mitting authority may provide for the terms of per-  
12 mits issued under its minor new source review to be  
13 appended to or incorporated in an operating permit  
14 issued under this subchapter. Nothing in this para-  
15 graph shall affect the authority of any person to en-  
16 force any requirement imposed under any rule, per-  
17 mit, or implementation plan under this Act.”.

18 (b) ASSURANCE OF OPERATING FLEXIBILITY.—(1)  
19 Section 502 (b)(10) (42 U.S.C. 7661a(b)(10)), is amended  
20 to read as follows:

21 “(10) The permitting authority may not require  
22 any source to obtain or modify a permit issued  
23 under this title for any physical or operational  
24 change at the source or for taking any other action  
25 prior to the date 7 days after the physical or oper-

1        ational change or other action is initiated. Nothing  
2        in this title shall be construed to alter the require-  
3        ments of any other title of this Act that a permit  
4        be obtained before construction or modification of a  
5        source. Nothing in this paragraph shall preclude any  
6        State from continuing to impose any requirement or  
7        employ any procedure separate and apart from the  
8        program required under this title, provided that such  
9        requirements and procedures shall not be applicable  
10       requirements under this title.”.

11            (2) Section 502(b) (42 U.S.C. 7661a(b)) is  
12        amended by adding the following paragraph after  
13        paragraph (10):

14            “(11) A provision giving major stationary  
15        sources the option of obtaining permits that would  
16        allow emissions increases and decreases at various  
17        units within the major stationary source without  
18        permit revisions if overall emissions limits for the  
19        major stationary source are not exceeded and  
20        preconstruction review is not required under title I.  
21        Nothing in this paragraph shall preclude any State  
22        from continuing to impose any requirement or em-  
23        ploy any procedure separate and apart from the pro-  
24        gram required under this title, provided that such

1 requirements and procedures shall not be applicable  
2 requirements under this title.”.

3 (c) SANCTIONS AND FEDERAL IMPLEMENTATION.—  
4 Section 502(d) (42 U.S.C. 7661a(d)) is amended by in-  
5 serting before the period at the end of subparagraphs (A)  
6 and (B) of paragraph (2) and before the period at the  
7 end of (3) the following: “in any case in which the Admin-  
8 istrator determines that such failure will cause the State  
9 to fail to attain a national primary ambient air quality  
10 standard by the applicable attainment date”.

11 (d) PERMIT TERM.—Section 502(b)(5)(B) is amend-  
12 ed by striking out “5 years” and inserting “10 years”.

13 **SEC. 3. ENHANCED MONITORING.**

14 Section 114(a) (42 U.S.C. 7414(a)(3)) is amended  
15 by striking paragraph (3) and inserting the following:

16 “(3) The Administrator shall in the case of any  
17 person which is the owner or operator of a major  
18 source, and may, in the case of any other person, re-  
19 quire submission of compliance certifications. Com-  
20 pliance certifications shall include (A) identification  
21 of the applicable requirement that is the basis of the  
22 certification, (B) the method used for determining  
23 the compliance status of the source, and (C) its com-  
24 pliance status. Compliance certifications and mon-  
25 itoring data shall be subject to subsection (c) of this

1 section. Submission of a compliance certification  
2 shall in no way limit the Administrator's authorities  
3 to investigate or otherwise implement this Act.

4 “(4) Nothing in this section or in title V shall  
5 authorize the Administrator to revise significantly,  
6 or to require significant revision of, an existing com-  
7 pliance method without employing procedures, such  
8 as a rulemaking, to allow meaningful comment on  
9 that revision and to assess the effect of the revision  
10 on the stringency of the underlying emission stand-  
11 ard or limitation. Nothing in this section or section  
12 113 (42 U.S.C. 7413) shall authorize the use of evi-  
13 dence other than the applicable compliance method  
14 or test method to establish a violation of the numeri-  
15 cal component of an emission limitation or standard.  
16 For purposes of this paragraph, compliance method  
17 as test method shall meet the requirements con-  
18 tained in a regulation or permit for monitoring or  
19 testing to determine compliance with the applicable  
20 emission standard or limitation. Nothing in this sub-  
21 paragraph shall limit the authority of the Adminis-  
22 trator to increase the stringency of controls or to im-  
23 pose new controls, as required under any other sec-  
24 tion of this Act.

1 **SEC. 4. RECOGNITION OF EFFECTIVE CONTROLS.**

2 Section 302 (42 U.S.C. 7602) is amended by adding  
3 the following at the end thereof:

4 “(aa) **POTENTIAL TO EMIT.**—The term ‘potential to  
5 emit’ means the maximum capacity of a stationary source  
6 to emit any regulated air pollutant under its physical and  
7 operational design. Any physical or operational limit on  
8 the capacity of a source to emit any regulated air pollut-  
9 ant, including any limit enforceable under Federal, State,  
10 or local law and including any pollution control equipment  
11 and restrictions on hours of operation or on the type or  
12 amount of material used, produced, stored, combusted or  
13 processed at such source shall be treated as part of its  
14 design if the limitation is effective.”.

15 **SEC. 5. SANCTIONS.**

16 The first sentence of section 179(a) (42 U.S.C.  
17 7509(a)) is amended by striking “one of the sanctions re-  
18 ferred to in subsection (b) shall apply, as selected by the  
19 Administrator” and all that follows down through the pe-  
20 riod at the end thereof and inserting “the Administrator  
21 may apply one of the sanction referred to in subsection  
22 (b) if the Administrator finds that such deficiency is likely  
23 to result in a failure by the State to attain a national pri-  
24 mary ambient air quality standard by the applicable at-  
25 tainment date.”.

1 **SEC. 6. HAZARDOUS AIR POLLUTANTS.**

2 Section 112(j)(6) is amended in the second sentence  
 3 by striking all after “the Administrator shall revise such  
 4 permit” and inserting “to comply with such standard and  
 5 such revision shall take effect on the date 10 years after  
 6 the date such standard is promulgated.”.

7 **SEC. 7. VOLUNTARY CONTROLS ADOPTED PRIOR TO NON-**  
 8 **ATTAINMENT.**

9 Section 182(b)(1)(C) is amended by adding the fol-  
 10 lowing at the end thereof: “Any measures that were not  
 11 expressly required by this Act, but that were voluntarily  
 12 implemented, prior to the designation of the area as a non-  
 13 attainment area shall be credited as additional reductions  
 14 for purposes of any revised plan adopted for the area pur-  
 15 suant to this part following designation of the area as an  
 16 ozone nonattainment area.”.

17 **SEC. 8. ATTAINMENT DATE DETERMINATIONS.**

18 (a) PARAGRAPH (5) EXTENSIONS.—Section  
 19 181(a)(5)(B) is amended to read as follows:

20 “(B)(i) no more than one exceedance of the na-  
 21 tional ambient air quality standard for ozone has oc-  
 22 curred in the area in the year preceding the Exten-  
 23 sion Year,

24 “(ii) the design value of the area (based on data  
 25 from the year preceding the extension year) does not  
 26 exceed the design value for the current classification



1 of the area as specified in table 1 of paragraph (1),  
2 or

3 “(iii) the Administrator determines that infre-  
4 quent episodic variations in air pollution levels  
5 caused by weather impact an area’s ability to dem-  
6 onstrate attainment.”.

7 (b) ADDITIONAL EXTENSION FOR CERTAIN  
8 AREAS.—Section 181(a) is amended by adding the follow-  
9 ing at the end thereof:

10 “(6) ATTAINMENT FOLLOWED BY VIOLATION.—  
11 Upon application by any State, the Administrator  
12 may extend, for up to an additional 3 years, the date  
13 specified in Table I of paragraph (1) of this sub-  
14 section and the dates specified in section 182(b) re-  
15 garding reasonable further progress, if—

16 “(A) the area has in a 3-year period prior  
17 to the attainment date, qualified for redesigna-  
18 tion as attainment for ozone, but

19 “(B) subsequent to such 3-year period, the  
20 area has violated the ozone standard.

21 No more than one extension may be issued under  
22 this paragraph for a single nonattainment area.”.

23 **SEC. 9. ATTAINMENT REDESIGNATIONS.**

24 Section 107(d)(3) is amended as follows:

1           (1) By amending the second sentence of sub-  
2       paragraph (D) to read as follows: “The Adminis-  
3       trator shall publish notice in the Federal Register of  
4       the Administrator’s receipt of a request for redesign-  
5       nation. The Administrator shall also publish notice  
6       in the Federal Register of the Administrator’s pro-  
7       posed approval or denial within 90 days after receipt  
8       of a complete State redesignation submittal and ap-  
9       prove or deny such redesignation within 90 days  
10      thereafter.”.

11           (2) By adding the following at the end of sub-  
12      paragraph (E):

13    “If a State requests the Administrator to redesignate an  
14    area as attainment and submits information to the Admin-  
15    istrator regarding such area adequate to demonstrate  
16    compliance with clauses (ii) through (v) and compliance  
17    (for a period of 3 years prior to the submission) with  
18    clause (i) and if the Administrator fails to publish notice  
19    in the Federal Register of the Administrator’s proposed  
20    approval or denial of such request within 90 days after  
21    receipt of a complete State redesignation request or fails  
22    to approve or deny such request within 90 days thereafter,  
23    the area shall be deemed to be redesignated as an attain-  
24    ment area by operation of law on the date 180 days after

1 the Administrator's receipt of a complete State redesigna-  
2 tion request.”.

3 **SEC. 10. CREDIT FOR EPISODIC CONTROLS.**

4 Section 110(a) is amended by inserting the following  
5 new subparagraph immediately after paragraph (3):

6 “(4) In determining whether the provisions of any  
7 plan or plan revision submitted under this Act are ade-  
8 quate to attain and maintain any national primary or sec-  
9 ondary ambient air quality standard, the Administrator  
10 shall provide appropriate credits for plan provisions which  
11 are designed to control air pollution only during certain  
12 periods when levels of one or more air pollutants are, or  
13 are likely to be, at higher levels than at other periods.”.

14 **SEC. 11. OPT-IN REFORMULATED GAS AREAS.**

15 Section 211(k)(6)(A) of the Clean Air Act is amended  
16 as follows:

17 (1) By inserting the following after the second  
18 sentence: “No area included in the coverage of the  
19 prohibition set forth in paragraph (5) pursuant to  
20 an application under this paragraph may continue to  
21 be included in such prohibition after December 31,  
22 1999, unless the Governor of the State in which  
23 such area is located has notified the Administrator  
24 of such continued inclusion prior to December 31,

1 1997, and the Administrator has published such no-  
2 tice in the Federal Register.”.

3 (2) By adding the following at the end thereof:

4 “An area that has been included in the coverage of  
5 the prohibition set forth in paragraph (5) pursuant  
6 to an application under this paragraph may subse-  
7 quently be excluded from such coverage pursuant to  
8 an application by the Governor to the Administrator,  
9 but such exclusion shall not take effect for a period  
10 of 1-year after the application is approved (in the  
11 case of Phase I Reformulated Gas Regulations) or 8-  
12 years after the date on which the area was first in-  
13 cluded in the coverage of such prohibition (in the  
14 case of Phase II Reformulated Gas Regulations).  
15 After an area is excluded from coverage pursuant to  
16 the preceding sentence, any subsequent inclusion (or  
17 subsequent exclusion) of the area from such cov-  
18 erage shall not take effect for a period of 1-year  
19 after the Governor’s application is approved. A Gov-  
20 ernor’s application shall be treated as approved  
21 under this subparagraph on the date on which the  
22 Administrator publishes notice of such approval in  
23 the Federal Register.”.

1 **SEC. 12. NO<sub>x</sub> REDUCTIONS FOR REFORMULATED GAS.**

2 Section 211(k)(2)(A) of the Clean Air Act is amended  
3 by adding the following at the end thereof: “The Adminis-  
4 trator may not require that emissions of oxides of nitrogen  
5 (NO<sub>x</sub>) from baseline vehicles when using the reformulated  
6 gasoline be less than emissions from such vehicles when  
7 using baseline gasoline.”.

8 **SEC. 13. ESTABLISHING NATIONAL PRIMARY AMBIENT AIR**  
9 **QUALITY STANDARDS.**

10 Section 109 of the Clean Air Act is amended as fol-  
11 lows:

12 (1) At the end of subsection (a) add the follow-  
13 ing:

14 “(3) Within two years after the enactment of this  
15 paragraph the Administrator shall promulgate national  
16 primary ambient air quality goals and revised national pri-  
17 mary ambient air quality standards.”.

18 (2) In subsection (b)(1), strike “prescribed,  
19 under subsection (a)” and insert “prescribed under  
20 subsection (a)(1)”.

21 (3) Strike the last sentence of subsection (a)(1)  
22 and insert “The national primary ambient air qual-  
23 ity goals promulgated under subsection (a)(3) shall  
24 set forth a level of ambient air quality, based on  
25 such criteria and allowing an adequate margin of  
26 safety, that is requisite to protect the public health.

1 In establishing such level the Administrator shall not  
2 take into account infrequent episodic variations in  
3 air pollution levels that are caused by weather. The  
4 revised national primary ambient air quality stand-  
5 ards promulgated under subsection (a)(3) shall be as  
6 close to such national primary ambient air quality  
7 goals as feasible such that the incremental costs of  
8 attaining such standard do not exceed the incremen-  
9 tal benefits of attaining the standard.”.

10 **SEC. 14. TRANSPORTATION CONFORMITY.**

11 Section 176 is amended to read as follows:

12 **“SEC. 176. TRANSPORTATION CONFORMITY.**

13 “Beginning on November 15, 1996, and at 4-year in-  
14 tervals thereafter, each State shall submit a revised inven-  
15 tory and performance plan for review by the Adminis-  
16 trator. Such plan shall include a certification by the State  
17 that the plan has been developed so as to meet air quality  
18 goals. The applicability of a State approved implementa-  
19 tion plan shall become effective for the purposes of this  
20 section upon signature of the Governor and shall continue  
21 unless disapproved by the Administrator within 30 days.  
22 The form and content of the inventory and performance  
23 plan shall solely be within the purview of each State and  
24 the Administrator shall not disapprove such plan unless  
25 the Administrator determines that a State has developed

1 an inventory and plan without adhering to such State's  
2 own processes and procedures. If not disapproved within  
3 30 days, such inventories and plans shall be considered  
4 approved. Nothing in this section shall require the submis-  
5 sion of an inventory or plan more than once every 4  
6 years.”.

7 **SEC. 15. OVERWHELMING TRANSPORT.**

8 Section 181 is amended by adding the following at  
9 the end thereof:

10 “(d) OVERWHELMING TRANSPORT.—If, based on  
11 photochemical grid modeling demonstrations or any other  
12 analytical method determined by the Administrator to be  
13 as effective, the Administrator determines that the area  
14 is a downwind nonattainment area receiving ozone or  
15 ozone precursor transport from outside the area and con-  
16 trol of ozone concentrations is beyond the ability of the  
17 area to control because volatile organic compounds and ox-  
18 ides of nitrogen from sources within such area do not  
19 make a significant contribution to ozone concentrations in  
20 such area (or in any other ozone nonattainment area), the  
21 Administrator may redesignate the area as attainment or  
22 as having a lower classification.”.

23 **SEC. 16. AUTOMOBILE INSPECTION AND MAINTENANCE.**

24 Section 182(c)(3)(C)(iv) is amended by inserting  
25 “safety inspection approval or” after “denial of”.

1 **SEC. 17. EMISSIONS TRADING.**

2 Section 110 is amended by inserting the following  
3 new subsection immediately before subsection (f):

4 “(e) EMISSIONS TRADING PROGRAMS.—The Admin-  
5 istrator shall approve any emissions trading program sub-  
6 mitted under this section as part of an applicable imple-  
7 mentation plan or implementation plan revision for any  
8 area unless the Administrator determines that such pro-  
9 gram would result in the failure of a nonattainment area  
10 to attain the national primary or secondary ambient air  
11 quality standards by the applicable attainment date or in  
12 the failure of an area that has been designated as attain-  
13 ment to maintain such standards. The Administrator shall  
14 not be required to approve any plan which will result in  
15 increased emissions (beyond the maintenance plan level)  
16 of the criteria pollutant for which the area is classified  
17 as nonattainment.”.

○